

Senate File 399 - Introduced

SENATE FILE 399
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1104)

A BILL FOR

1 An Act relating to the conduct of elections, including general
2 election ballot vacancies, voter registration, elections
3 administration, absentee voting, and vacancies on school
4 boards and merged area governing boards and including
5 effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

CANDIDATE WITHDRAWAL

Section 1. Section 43.78, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any candidate nominated to fill a vacancy in accordance with this section may withdraw the candidate's nomination by a written request filed as follows:

a. In the office of the state commissioner, at least seventy-four days before the date of the election.

b. In the office of the proper commissioner, at least sixty-four days before the date of the election.

c. In the office of the state commissioner, in case of a special election to fill vacancies in Congress or the general assembly, not more than:

(1) Twenty days after the date on which the governor issues the call for a special election to be held on at least forty days' notice.

(2) Five days after the date on which the governor issues the call for a special election to be held on at least ten but less than forty days' notice.

d. In the office of the proper commissioner or the state commissioner, as applicable, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

DIVISION II

VOTER REGISTRATION

Sec. 2. Section 48A.27, subsection 2, paragraph a, subparagraph (1), Code 2017, is amended to read as follows:

(1) A signed, written notice to the county commissioner in person, by mail, ~~by facsimile,~~ or by electronic ~~mail~~ submission.

DIVISION III

ELECTIONS ADMINISTRATION GENERALLY

Sec. 3. Section 49.16, subsection 5, Code 2017, is amended to read as follows:

1 5. A person shall not serve on the precinct election board
 2 as a representative of a political party if the person has
 3 changed political party affiliation from that of the political
 4 party which selected the person to serve as a precinct election
 5 official. If a precinct election official records a change
 6 of political party, the official's name shall be removed from
 7 the list of precinct election officials for that political
 8 party. The chairperson of the political party shall be
 9 notified of the vacancy and may designate a replacement. If
 10 the chairperson of another political party later designates the
 11 person as a precinct election official, the person may serve,
 12 if qualified. If a precinct election official serving on the
 13 board as a representative of a political party records a change
 14 of political party to vote absentee under chapter 53 and after
 15 voting absentee records a change of political party back to
 16 the political party the official represents on the precinct
 17 election board, the official's name shall be removed from the
 18 list of precinct election officials for that election. The
 19 chairperson of the political party shall be notified of the
 20 vacancy and may designate a replacement for that election.

21 Sec. 4. Section 49.57, subsection 2, Code 2017, is amended
 22 to read as follows:

23 2. In the area of the general election ballot for straight
 24 party voting, the party or organization names shall be printed
 25 in upper case and lower case letters using a uniform font size
 26 for each political party or nonparty political organization.
 27 The font size shall be not less than ~~twelve~~ ten point type.
 28 After the name of each candidate for a partisan office the name
 29 of the candidate's political party shall be printed in at least
 30 six point type. The names of political parties and nonparty
 31 political organizations may be abbreviated on the remainder of
 32 the ballot if both the full name and the abbreviation appear
 33 in the "Straight Party" and "Other Political Party" areas of
 34 the ballot.

35 Sec. 5. Section 49.104, subsection 7, Code 2017, is amended

1 to read as follows:

2 7. Any person authorized by the commissioner, in
3 consultation with the secretary of state, for the purposes of
4 conducting and attending educational voting programs ~~for youth.~~

5 DIVISION IV

6 ABSENTEE VOTING

7 Sec. 6. Section 53.8, subsection 3, paragraph a, Code 2017,
8 is amended to read as follows:

9 a. When an application for an absentee ballot is received
10 by the commissioner of any county from a registered voter who
11 is a patient in a hospital in that county, a tenant of an
12 assisted living program in that county as shown by the list
13 of certifications provided the commissioner under section
14 231C.21, or a resident of any facility in that county shown to
15 be a health care facility by the list of licenses provided the
16 commissioner under section 135C.29, the absentee ballot shall
17 be delivered to the voter and returned to the commissioner in
18 the manner prescribed by section 53.22. For purposes of this
19 paragraph, "assisted living program" means a program certified
20 pursuant to section 231C.3 that meets the standards for a
21 dementia-specific assisted living program, as established by
22 rule by the department of inspections and appeals.

23 Sec. 7. Section 53.22, Code 2017, is amended to read as
24 follows:

25 **53.22 Balloting by confined persons.**

26 1. For purposes of this section, "assisted living program"
27 means a program certified pursuant to section 231C.3 that meets
28 the standards for a dementia-specific assisted living program,
29 as established by rule by the department of inspections and
30 appeals.

31 ~~1.~~ 2. a. (1) A registered voter who has applied for
32 an absentee ballot, in a manner other than that prescribed
33 by section 53.10 or 53.11, and who is a resident, tenant, or
34 patient in a health care facility, assisted living program, or
35 hospital located in the county to which the application has

1 been submitted shall be delivered the appropriate absentee
2 ballot by two special precinct election officers, one of whom
3 shall be a member of each of the political parties referred to
4 in [section 49.13](#), who shall be appointed by the commissioner
5 from the election board panel for the special precinct
6 established by [section 53.20](#). The special precinct election
7 officers shall be sworn in the manner provided by section
8 49.75 for election board members, shall receive compensation
9 as provided in [section 49.20](#), and shall perform their duties
10 during the ten calendar days after the ballots are printed if
11 the commissioner so elects, during the fourteen calendar days
12 preceding the election, and on election day if all ballots
13 requested under [section 53.8, subsection 3](#), have not previously
14 been delivered and returned.

15 (2) If materials are prepared for the two special precinct
16 election officials, a list shall be made of all voters to whom
17 ballots are to be delivered. The list shall be sent with the
18 officials who deliver the ballots and shall include spaces
19 to indicate whether the person was present at the hospital,
20 assisted living program, or health care facility when the
21 officials arrived, whether the person requested assistance
22 from the officials, whether the person was assisted by another
23 person of the voter's choice, the time that the ballot was
24 returned to the officials, and any other notes the officials
25 deem necessary.

26 (3) The officials shall also be issued a supply of extra
27 ballots to replace spoiled ballots. Receipts shall be
28 issued in substantially the same form as receipts issued to
29 precinct election officials pursuant to [section 49.65](#). All
30 ballots shall be accounted for and shall be returned to the
31 commissioner. Separate envelopes shall be provided for the
32 return of spoiled ballots and unused ballots.

33 *b.* If an applicant under [this subsection](#) notifies the
34 commissioner that the applicant will not be available at the
35 health care facility, assisted living program, or hospital

1 address at any time during the ten-day period after the ballots
2 are printed, if applicable, or during the fourteen-day period
3 immediately prior to the election, but will be available there
4 at some other time prior to the election or on election day,
5 the commissioner shall direct the two special precinct election
6 officers to deliver the applicant's ballot at an appropriate
7 time preceding the election or on election day. If a person
8 who so requested an absentee ballot has been dismissed from
9 the health care facility or hospital, or is no longer a tenant
10 of the assisted living program, the special precinct election
11 officers may take the ballot to the voter if the voter is
12 currently residing in the county.

13 c. The special precinct election officers shall travel
14 together in the same vehicle and both shall be present when an
15 applicant casts an absentee ballot. If either or both of the
16 special precinct election officers fail to appear at the time
17 the duties set forth in [this section](#) are to be performed, the
18 commissioner shall at once appoint some other person, giving
19 preference to persons designated by the respective county
20 chairpersons of the political parties described in section
21 49.13, to carry out the requirements of [this section](#). The
22 persons authorized by [this subsection](#) to deliver an absentee
23 ballot to an applicant, if requested, may assist the applicant
24 in filling out the ballot as permitted by [section 49.90](#). After
25 the voter has securely sealed the marked ballot in the envelope
26 provided and has subscribed to the oath, the voted absentee
27 ballots shall be deposited in a sealed container which shall be
28 returned to the commissioner on the same day the ballots are
29 voted. On election day the officers shall return the sealed
30 container by the time the polls are closed.

31 ~~2.~~ 3. Any registered voter who becomes a patient,
32 tenant, or resident of a hospital, assisted living program,
33 or health care facility in the county where the voter is
34 registered to vote within three days prior to the date of any
35 election or on election day may request an absentee ballot

1 during that period or on election day. As an alternative
 2 to the application procedure prescribed by [section 53.2](#), the
 3 registered voter may make the request directly to the officers
 4 who are delivering and returning absentee ballots under this
 5 section. Alternatively, the request may be made by telephone
 6 to the office of the commissioner not later than four hours
 7 before the close of the polls. If the requester is found to be
 8 a registered voter of that county, these officers shall deliver
 9 the appropriate absentee ballot to the registered voter in the
 10 manner prescribed by [this section](#).

11 ~~3.~~ 4. For any election except a primary or general election
 12 or a special election to fill a vacancy under [section 69.14](#),
 13 the commissioner may, as an alternative to [subsection ~~1~~ 2](#),
 14 mail an absentee ballot to an applicant under [this section](#) to
 15 be voted and returned to the commissioner in accordance with
 16 this chapter. [This subsection](#) only applies to applications for
 17 absentee ballots from a single health care facility, assisted
 18 living program, or hospital if there are no more than two
 19 applications from that facility, program, or hospital.

20 ~~4.~~ 5. The commissioner shall mail an absentee ballot to
 21 a registered voter who has applied for an absentee ballot and
 22 who is a patient, tenant, or resident of a hospital, assisted
 23 living program, or health care facility outside the county in
 24 which the voter is registered to vote.

25 ~~5.~~ 6. *a.* If the registered voter becomes a patient,
 26 tenant, or resident of a hospital, assisted living program,
 27 or health care facility outside the county where the voter is
 28 registered to vote within three days before the date of any
 29 election or on election day, the voter may designate a person
 30 to deliver and return the absentee ballot. The designee may
 31 be any person the voter chooses except that no candidate for
 32 any office to be voted upon for the election for which the
 33 ballot is requested may deliver a ballot under [this subsection](#).
 34 The request for an absentee ballot may be made by telephone
 35 to the office of the commissioner not later than four hours

1 before the close of the polls. If the requester is found to
2 be a registered voter of that county, the ballot shall be
3 delivered by mail or by the person designated by the voter. An
4 application form shall be included with the absentee ballot and
5 shall be signed by the voter and returned with the ballot.

6 *b.* Absentee ballots voted under **this subsection** shall be
7 delivered to the commissioner no later than the time the polls
8 are closed on election day. If the ballot is returned by mail
9 the return envelope must be received by the time the polls
10 close, or be clearly postmarked by an officially authorized
11 postal service or bear an intelligent mail barcode traceable
12 to a date of entry into the federal mail system not later than
13 the day before the election and received by the commissioner no
14 later than the time established for the canvass by the board of
15 supervisors for that election.

16 ~~6.~~ 7. Observers representing candidates, political
17 parties, or nonparty political organizations, or observers who
18 are opponents or proponents of a ballot issue to be voted on at
19 the election are prohibited from being present at a hospital,
20 assisted living program, or health care facility during the
21 time the special precinct election officers are delivering
22 absentee ballots to the patients, tenants, or residents of such
23 hospital, assisted living program, or health care facility.

24 Sec. 8. Section 53.37, subsection 3, paragraph e, Code 2017,
25 is amended to read as follows:

26 *e.* Citizens of the United States who do not fall under any
27 of the categories described in paragraphs "a" through "d",
28 but who are entitled to register and vote pursuant to section
29 48A.5, subsection 4 or 5.

30 Sec. 9. NEW SECTION. 231C.21 **Certification list to county**
31 **commissioner of elections.**

32 To facilitate the implementation of section 53.8, subsection
33 3, and **section 53.22**, the director shall provide to each county
34 commissioner of elections at least annually a list of each
35 certified dementia-specific assisted living program in that

1 county. The list shall include the street address or location,
2 and the mailing address if it is other than the street address
3 or location, of each program.

4 DIVISION V

5 SCHOOL ELECTIONS

6 Sec. 10. Section 260C.11, subsection 1, Code 2017, is
7 amended to read as follows:

8 1. The governing board of a merged area is a board of
9 directors composed of one member elected from each director
10 district in the area by the electors of the respective
11 district. Members of the board shall be residents of the
12 district from which elected. Successors shall be chosen at
13 the regular school elections for members whose terms expire.
14 The term of a member of the board of directors is four years
15 and commences at the organizational meeting. Vacancies on
16 the board shall be filled at the next regular meeting of the
17 board by appointment by the remaining members of the board. A
18 member so chosen shall be a resident of the district in which
19 the vacancy occurred and shall serve until a member is elected
20 pursuant to at the next school election or intervening special
21 election held for the merged area, in accordance with section
22 69.12 to fill the vacancy for the balance of the unexpired
23 term. A vacancy is defined in [section 277.29](#). A member shall
24 not serve on the board of directors who is a member of a board
25 of directors of a local school district or a member of an area
26 education agency board.

27 Sec. 11. Section 279.6, subsection 1, paragraph b,
28 subparagraphs (1) and (2), Code 2017, are amended to read as
29 follows:

30 (1) If within fourteen days after publication of a notice
31 required pursuant to paragraph "a" for a vacancy that occurs
32 more than one hundred eighty days before the next regular
33 school election, or after the filing period closes pursuant
34 to section 277.4, subsection 1, for the next regular school
35 election, there is filed with the secretary of the school board

1 a petition requesting a special election to fill the vacancy,
2 an appointment to fill the vacancy is temporary until a
3 successor is elected and qualified, and the board shall call a
4 special election pursuant to [section 279.7](#), to fill the vacancy
5 for the remaining balance of the unexpired term.

6 (2) If within fourteen days after publication of a notice
7 required pursuant to paragraph "a" for a vacancy that occurs one
8 hundred eighty days or less but more than forty days before the
9 next regular school election there is filed with the secretary
10 of the school board a petition requesting to fill the vacancy
11 by election, an appointment to fill the vacancy is temporary
12 until a successor is elected and qualified, and the school
13 board shall require that the remaining balance of the unexpired
14 term be filled at the next regular school election.

15 Sec. 12. EFFECTIVE UPON ENACTMENT. The section of this
16 division of this Act amending section 260C.11, being deemed of
17 immediate importance, takes effect upon enactment.

18 Sec. 13. RETROACTIVE APPLICABILITY. The section of
19 this division of this Act amending section 260C.11 applies
20 retroactively to July 1, 2016.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to the conduct of elections, including
25 general election ballot vacancies, voter registration,
26 elections administration, absentee voting, and vacancies on
27 school boards and merged area governing boards.

28 Division I of the bill specifies that a candidate nominated
29 by a political party to fill a vacancy on the general election
30 ballot may withdraw the candidate's name from nomination by
31 written request filed with the state commissioner of elections
32 (secretary of state) or proper county commissioner of elections
33 (county auditor), with deadlines for withdrawal as specified
34 in the bill.

35 Division II of the bill provides that a registered voter

1 may request changes in the voter's registration by a signed,
2 written notice transmitted by electronic submission, rather
3 than facsimile or electronic mail.

4 Division III of the bill, relating to the administration of
5 elections, prohibits a representative of a political party on
6 a precinct election board from changing political parties to
7 vote absentee in the election for which they are serving as a
8 representative. The bill requires that the official's name be
9 removed from the list of precinct election board members for
10 that election. The bill also lowers the minimum font size for
11 printing the names of political parties or nonparty political
12 organizations on the area of the ballot for straight party
13 voting. Additionally, current law allows county commissioners
14 of elections to permit individuals to be present at polling
15 places for the purposes of any educational voting program for
16 youth. The bill removes the requirement that the program be
17 for youth.

18 Division IV of the bill, relating to absentee voting, allows
19 tenants of dementia-specific assisted living programs to vote
20 by absentee ballot in the same manner allowed for patients or
21 residents in hospitals or health care facilities. Under the
22 bill, the department of inspections and appeals is required to
23 provide a list of dementia-specific assisted living programs
24 certified under Code section 231C.3, and as defined in rule.

25 Relating to absent voting by overseas citizens, the bill
26 provides that a United States citizen is eligible to vote
27 absentee as a uniformed or overseas voter if the citizen is
28 living outside the United States, has a parent who can vote as
29 a uniformed or overseas voter, and has never resided in the
30 United States, but meets all other requirements for voting.

31 Division V of the bill relates to school elections. The bill
32 specifies that a person appointed to fill a vacancy on a merged
33 area governing board will serve until a member is elected at
34 the next school election or at an intervening special election
35 held for the merged area. This provision takes effect upon

1 enactment and applies retroactively to July 1, 2016.
2 Division V of the bill also requires county commissioners
3 of elections to conduct a special election to fill a vacancy
4 on a school board if a valid petition is filed and if the
5 vacancy occurs after the filing period for the next regular
6 school election has closed. Under current law, such vacancies
7 are required to be filled at the election for which the
8 filing period has closed. Under current Code section 277.4,
9 subsection 1, nomination petitions are required to be filed
10 by not later than 5:00 p.m. on the 40th day before the school
11 election.